

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

RICKY GRATE,)	
)	
Petitioner,)	
)	
v.)	Nos.: 3:13-CR-103-TAV-CCS-1
)	3:13-CR-124-TAV-CCS-1
UNITED STATES OF AMERICA,)	3:16-CV-273-TAV
)	
Respondent.)	

JUDGMENT ORDER

For the reasons expressed in the accompanying memorandum opinion, it is **ORDERED** and **ADJUDGED** that Magistrate Judge Shirley's report and recommendation [*Grate I*, Doc. 33; *Grate II*, Doc. 43]¹ is **ADOPTED IN WHOLE** and Petitioner's subsequently-filed § 2255 motion [*Grate II*, Doc. 39] is **DENIED** and **DISMISSED WITH PREJUDICE**. The Clerk's Office is hereby directed to **CLOSE** the civil case associated with Petitioner's collateral challenge [E.D. Tenn. Case No. 3:16-cv-273-TAV]. If Petitioner files a notice of appeal from this judgment, such notice of appeal will be treated as an application for a certificate of appealability, which is **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b) because he has failed to make a substantial showing of the denial of a federal constitutional right.

¹ Petitioner was charged in two separate criminal cases; the first involved possession of a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1) [E.D. Tenn. Case No. 3:13-CR-103-TAV-CCS-1], and the second involved distributing crack cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C) [E.D. Tenn. Case No. 3:13-CR-124-TAV-CCS-1]. For purposes of clarity, all references to the first case [E.D. Tenn. Case No. 3:13-CR-103-TAV-CCS-1] will be denoted as *Grate I* and all references to the second case [E.D. Tenn. Case No. 3:13-CR-124-TAV-CCS-1] will be marked *Grate II*.

The Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24 that any such appeal from this judgment would be frivolous and not taken in good faith.

ENTER:

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Debra C. Poplin
CLERK OF COURT